

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

AUG 06 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID P. GEOZOS,

Defendant - Appellant.

No. 07-30266

D.C. No. CR-06-00082-RRB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Alaska  
Ralph R. Beistline, District Judge, Presiding

Submitted August 4, 2008<sup>\*\*</sup>  
Anchorage, Alaska

Before: D.W. NELSON, TASHIMA, and FISHER, Circuit Judges.

David Geozos appeals the 180-month sentence imposed following his guilty plea to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). We affirm the sentence because Geozos is subject to a mandatory

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

minimum sentence of fifteen years under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e).

The district court correctly concluded that Geozos is an armed career criminal because he had at least three previous convictions for violent felonies. *See* 18 U.S.C. § 924(e)(1). Geozos does not dispute that his previous conviction for assault qualifies as a crime of violence. Geozos’ contention that his three 1981 convictions for robbery should be treated as one offense is unavailing because they were temporally distinct. *See United States v. Phillips*, 149 F.3d 1026, 1031 (9th Cir. 1998). Additionally, neither the nature of the plea nor the age of the prior convictions exempts them from the scope of the ACCA. *See United States v. Alvarez*, 972 F.2d 1000, 1006 (9th Cir. 1992) (per curiam) (age of conviction is not relevant under ACCA); *United States v. Williams*, 47 F.3d 993, 995 (9th Cir. 1995) (plea of nolo contendere establishes a “conviction” for the crime charged in the indictment).<sup>1</sup> Accordingly, Geozos falls within the sentencing mandate of the ACCA.

The district court lacked the discretion to impose a sentence below the statutory mandatory minimum sentence. *See United States v. Hernandez-Castro*,

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<sup>1</sup>We need not reach the issue of whether Geozos’ 1992 conviction for burglary under Florida law constitutes a crime of violence because the assault and robbery convictions qualify Geozos for treatment under the ACCA.

473 F.3d 1004, 1007 (9th Cir. 2007). Geozos' argument that after *United States v. Booker*, 543 U.S. 220 (2005), district courts have the discretion to deviate from statutory mandatory minimums is foreclosed by this circuit's case law. *See, e.g., United States v. Mueller*, 463 F.3d 887, 892 (9th Cir. 2006).

**AFFIRMED.**